IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5732 OF 2004

Chitra Anant Salunkhe ...Applicant

Vs.

Virendranath Bhagwanprasad Tiwari & Ors. ...Respondents

Mr. Arfan Sait for the Applicant.
Ms. M.M. Deshumkh A.P.P. for the Respondents.

CORAM : A. S. OKA, J.
DATED : JULY 08, 2005.

P.C.:

1. On the last date Counsel appearing for the parties were heard. This Application is filed by the original complainant for cancellation of bail granted in favour of the Respondent Nos.1 and 2.

2. The contention of the Applicant is that the Respondent No.1 has patently misused the facility granted by this Court. The allegation in the Application is that the Respondent Nos.1 and 2 have continued harassment to the personal life and liberty of the Applicant in gross voilation of provisions of Article 21 of the Constitution of India.

3. In the Application, the Applicant has set out various facts leading to the commission of offence. The material averments in the Application made by the

Applicant are found in paragraph No.3 of the Application. It is pertinent to note that order of bail is granted in favour of the Respondent No.1 and 2 on 10th October, 2003. The contention of the Applicant is not that on merits the bail ought not to have been granted. It will be necessary to refer the material averments. The learned Counsel for the Applicant has fairly stated that he is pressing into service only grounds (h) and (hh) in paragraph No.3 of the Application. The said ground (h) and (hh) read thus:

> (h) The Petitioner states that time and again the Respondent Nos.1 and 2 have left no stone unturned in harassing the Petitioner for some reason or the other anf for which the Petitioner has been running from pillar to post to various authorities to seek justice. In fact, the Petitioner was categorically threatened at the instance and/or by the Respondent Nos.1 and 2 with the help of supari killers. Petitioner states that time and again such anti social elements have been reprimanded to the Petitioner's house by the Respondent Nos.1 and 2 with firearms. The Petitioner states that the indecent and immoral activities of the Respondent Nos.1 and 2 continued further to such an extent, that they sent contract killers and/or supari killers at the residence of the Petitioner and due to which the Petitoner's maid, as well as, her minor son was petrified and suffered tremendous mental shock. The Petitionr immediately rushed to the Vakola Police Station and registered and FIR concerning the entire incidence. Hereto annexed and marked Exhibit "E" is

a copy of the aid FIR registered by the Vakola Police Station bearing No.46 of 2004 and dated 29th January, 2004.

(hh) The Petitioner states that the Respondent No.1 continued his nefarious acts by deliberately indulging the Petitioner in some false case when in fact the Petitioner was no where remotly connected with the said caes and/or not even remotely concerned with the said case. The Petitioenr states that the Respondent No.1 approached Univesity Tribunal wherein his primary grievance was against the managementof the said Siddharth College and instigated the said management by alleging that the Petitioner was involved in an procuring over excess marks at her L.L.M. Examination. The Petitioner states that accordingly and upon the baseless complaint as filed by the Respondent No.1 and the management initiated action against the Petitioner for no fault of hers. The Petitioner craves leave to refer to an rely upon one of the complaint filed by the Respondent No.1 before the University as well as the management of the said college.

. The Petitioner states that the atrocities of the Respondent NO.1 continued to such an extent that the Petitioner had to seek help of the Human Rights Commission for securing her rights. The Petitioner states that accordingly the said Human Rights Commission issued notice to the Respondent No.1 as well as the Member Secretary of the People’s Education Society. Hereto annexed and marked Exhibit F is a copy of the notice issued by the said Human Rights Commission dated 3rd February, 2004.

. The Petitioner states that the Respondent No.1 was called upon to show cause as to why action should not be initiated against him as well as against the members. The Petitioner states that after due deliberation, the said Human

Rights Commission closed the entire chapter by its letter dated 3rd February, 2004 to the respective parties. But, however, observed tht "there is however serious allegation against management by the complaint in the case that management has not taken action for violating her co-colleague at place of her work. It is, therefore, necessary to give the opportunity to management to file their Reply in Affidavit. The Petitioner states that despite the issue being debatable and serious in nature, the Human Rights Commission further failed to reconcile the issue to initiate action against the Respondent No.1 as well as the other miscreants. The Petitioner states that the entire episode was in utter disregard to her fundamental rights and despite which no action of whatsoever nature has been initiated against either the Respondent Nos.1 and 2 or others. It is pertinent to mention here that the Respondent No.1 had issued many defamative letters to the Petitioner in the name of some fake persons and thereafter enquired with the Petitioner whether the Petitioner received any such letter, the Petitioner informed Samaj Seva Shakha. The Respondent No.1 thereafter telephoned the Petitioner and enquired with her whether she received any such letter addressed by one V.B. Kamble. The Petitioner verified the aspect of existence of any such person and to her utter dismay, there was no such person by the name V.B. Kamble. The Petitioner thereafter realized that it could not be anyone else but, the Respondent No.1. Hereto annexed and marked Exhibit G (Colly) are the copies of the said letter dated 22nd June, 2004.

4. The perusal of the said grounds and the reply which is placed on record by the contesting Respondents shows that there is no merit in the grounds made out for cancellation of bail. The

allegations are very vague and general in nature. The Applicant has not established that the liberty granted in favour of the Applicants in bail application have been misused.

5. The Apex Court held that the cancellation of bail is not a matter of course. Unless a specific grounds are pleaded and established warranting the cancellation of bail, the liberty granted to the Respondent Nos.1 and 2 cannot be interfered with. On 24th June, 2005 when this Application was argued, the learned Counsel appearing for the Applicant sought permission to amend this Application for placing the additional material on record. However, on the last date, Counsel appearing for the Applicant made a statement that the Applicant is not in a position to carry out the amendment.

6. Thus, as of today on the basis of the averments which are made in this Application, no case is made out for cancellation of bail. Accordingly, Application is rejected.

JUDGE